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## **Green Paper :**

# **The 1987 Review of Developments in Representative Government**

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# **CHAPTER I**

## **INTRODUCTION**

In November 1984, the Government published a White Paper entitled 'The Further Development of Representative Government in Hong Kong'. The purpose of the White Paper was to set out the Government's intentions for 1985 with regard to the next stage of development of representative government at the central level. It concluded, amongst other things, that there should be a further review in 1987 of the progress made in the development of representative government.

### **The Form and Scope of the 1987 Review**

2. The purpose of the 1987 Review is to consider whether the systems of representative government in Hong Kong should be further developed in 1988 and, if so, in what manner. It will be conducted within the framework of Hong Kong's existing constitutional arrangements. It will also take fully into account the terms of the Sino-British Joint Declaration on the Question of Hong Kong, which provides for Hong Kong to become a Special Administrative Region of the People's Republic of China with effect from 1 July 1997.

3. The publication of this Green Paper marks the first stage in the 1987 Review. Its contents encompass:

- (a) a general review of the way in which the system of government has developed so far at the district, regional and central government levels;
- (b) an assessment of the developments since the publication of the 1984 White Paper and of the public response to them; and
- (c) consideration of the options for possible further development in 1988.

4. The Green Paper does not recommend any one option in preference to another. It does, however, set out briefly the arguments for and against different options. The objective is to encourage the widest possible public response.

5. The main issues to be considered in subsequent chapters are:

- (a) the composition and functions of the District Boards and the Municipal Councils (i.e. the Urban Council and the Regional Council) and possible ways of improving the links between them (Chapter III);
- (b) the composition of the Legislative Council and the methods of selecting Council Members (Chapter IV);
- (c) the question of whether the Governor should continue to be the President of the Legislative Council (Chapter V); and
- (d) practical aspects of elections to the District Boards, the Municipal Councils and the Legislative Council, including the sequence and timing of elections, the voting age and the adequacy of present voting and electoral arrangements (Chapter VI).

6. Following publication of the Green Paper, there will be a period of public consultation extending to 30 September 1987. During this time, the public are invited to send their views in writing to the Survey Office which has been established for the purpose of receiving and recording public opinion on the 1987 Review. The terms of reference of the Survey Office, and of the independent Monitors overseeing its work, are at Appendix A.

7. At the conclusion of the consultation period, the Survey Office will prepare a report on the opinions expressed on the Green Paper. The report will be submitted to the Governor in Council. It will then be tabled in the Legislative Council and published. Thereafter, a White Paper setting out the Government's proposals for the further development of representative government will be prepared and published.

## CHAPTER II

### HISTORICAL BACKGROUND

8. The development of representative government in Hong Kong has been a gradual process. At each stage the Government has consulted carefully within the community in order to ensure the widest possible public support for its policies.
9. Prior to 1970, a formal system of consultation existed in the New Territories through Village Representatives, Rural Committees and the Heung Yee Kuk. In the urban areas, the Urban Council, made up of elected and appointed members in addition to government officials, was consulted on the provision of essential municipal services. The Government also drew on the advice of individual members of the community through a wide range of advisory boards and committees and through close contacts with kaifongs and other similar associations.
10. The key stages in the development of the present structure of representative government in recent years are summarized in paragraphs 11–27 below.

#### **Developments in the 1970s**

11. In the early 1970s, the Government began to place increasing emphasis on encouraging local residents to become directly involved in the work of administration at the neighbourhood and district levels. The Keep Hong Kong Clean and the Fight Crime Campaigns were launched to tackle these pressing social problems. Efforts were also made to promote better management and security in multi-storey buildings through the establishment of Mutual Aid Committees and Owners Corporations. City District Committees, composed of leading members of the community and representatives of appropriate government departments, were set up in the urban districts of Hong Kong and Kowloon to assist in co-ordinating these efforts. They were assisted by local Area Committees composed of members of the community from all walks of life.
12. These initiatives led to a strengthening of the channels of communication between the Government and local residents. In due course the City District Committees were encouraged to assume a wider role in stimulating a sense of local identity and helping to ensure that the efforts of government departments were co-ordinated as effectively as possible to meet the needs and aspirations of the local community.
13. In the New Territories, the movement of large numbers of people from the older urban areas, to live in the developing new towns, gave impetus to consideration of how channels of consultation could be extended to meet the needs of new residents, as well as the indigenous inhabitants. In 1977, the first District

Advisory Board was established in Tsuen Wan with a role and functions similar to those of the City District Committees in the urban areas. It comprised members of the local community, Rural Committee Chairmen and government officials working in the district. By 1979, similar boards had been set up in all New Territories districts.

14. During the 1970s, steps were also taken to make the system of government at the regional and central levels more representative. In 1973, the Urban Council became the first government body with elected membership to be given statutory executive responsibilities and financial autonomy. The six official members were withdrawn from the Council, and the number of members who were not officials was increased from 20 to 24, of whom 12 were appointed by the Governor and 12 were directly elected on a limited franchise.

15. During this period, the membership of the Legislative Council was expanded from 25 (excluding the President) in 1970 to 44 in 1980, and the proportion of Official Members was progressively reduced. By the end of the 1970s, Members who were not government officials were in a significant majority (55 per cent) on the Council, and they were drawn from a wider range of social and professional backgrounds than previously.

## **Subsequent Developments**

### ***District administration***

16. The 1981 White Paper 'District Administration in Hong Kong' constituted the first formal statement of the Government's policy intentions with regard to the wider involvement of Hong Kong people in administration at the district level. Following its publication, District Boards were established in all the then eighteen administrative districts of Hong Kong Island, Kowloon and the New Territories, with wide-ranging terms of reference to advise the Government on matters affecting the well being of people living and working in the district. At the same time, District Management Committees, composed of officials from government departments closely involved with management at the district level, were established in all districts to receive and act upon the advice of their respective District Boards.

17. Initially, members of District Boards were all appointed. They included Urban Councillors, Chairmen of Rural Committees and Area Committees in the district and key members of the District Management Committees. Elections to District Boards were held for the first time in 1982, on the basis of local constituencies and a broad franchise embracing all residents aged 21 years and over who had lived in the territory for at least seven years. In 1985, all official members on the Boards (including the Chairmen) were withdrawn and the number of elected members was doubled.

18. There are now 19 District Boards with a total of 426 members: 237 elected, 132 appointed and 57 ex-officio.

## ***Developments at the regional level***

19. Following the 1981 White Paper on District Administration, the Urban Council franchise was extended to bring it in line with that of the District Boards. In order to strengthen the relationship between the Council and the local community, territory-wide elections to the Urban Council were replaced by elections from 15 regional constituencies, and each elected member of the Urban Council was made an ex-officio member of an urban District Board.

20. In 1984, the Government announced that a second municipal council was to be established to perform functions in the New Territories similar to those of the Urban Council in Hong Kong Island and Kowloon. A Provisional Regional Council was set up in April 1985. The Regional Council, with full statutory authority, came into existence one year later.

21. When the Regional Council was formally established in April 1986, systems of representation in the New Territories were already well developed through the Rural Committees, the Heung Yee Kuk and the District Boards. The composition, structure and working arrangements of the Council were therefore devised to take full account of the need to develop close links with these various bodies. Thus, in addition to appointed and directly elected members, the Regional Council includes members indirectly elected by the New Territories District Boards, and the Chairman and two Vice-Chairmen of the Heung Yee Kuk are ex-officio members.

## ***Developments at the central government level***

22. The progressive development of a more representative Legislature, noted in paragraph 15 above, continued in the early 1980s. At the beginning of 1984, the membership of the Legislative Council (excluding the President) was 47, of whom 29 Members, or 62 per cent, were not government officials. Nevertheless, in the light of developments at the district and regional levels, there were increasing calls from the public for further development of the system of representative government at the central level.

23. In considering how this might best be achieved, the 1984 Green Paper took, as its guiding principle, the importance of building on the systems of consultation which were already in place. Two main approaches were identified: one based on representation with reference to where people live (e.g. Area Committees, District Boards, the Heung Yee Kuk etc.) and one based on representation with reference to their occupation or professional expertise (e.g. lawyers, doctors, educationalists, industrialists etc.).

24. Following public consultation, the 1984 White Paper concluded that changes should be made to the composition and balance of membership of the Legislative Council. It recommended that the number of Official Members should be reduced and that the system of appointing Members to the Legislative Council, from a wide range of geographical and occupational affiliations,

should be supplemented by the formal creation of specific geographical and functional constituencies from within which a substantial number of Members might be elected.

25. The first elections of Members to the Legislative Council were held in September 1985. Twelve Members were elected by nine 'functional constituencies' composed of members of territory-wide organizations and professional bodies representing commerce, industry, finance, labour, the social services, medicine, education, the legal profession and the engineering and associated professions.

26. The election of a further twelve Members to represent 'geographical constituencies' was carried out by an electoral college comprising all District Board members and members of the Urban and Regional Councils. To ensure a reasonable balance in geographical representation, the college was divided into 12 constituencies—ten made up of District Board members, and two made up of members of the Urban and Regional Councils.

27. The main outcome of the 1984 White Paper has thus been to introduce new methods of selecting Members of the Legislative Council by means of elections based on a limited franchise. The public were also consulted, in 1984, on the desirability of introducing direct elections to the Legislative Council, based on a franchise similar to that for the District Board and municipal council elections. The White Paper concluded that the issue should be further considered in the context of the 1987 Review.

## CHAPTER III

### THE DISTRICT BOARDS AND THE MUNICIPAL COUNCILS

28. Chapter II described in general terms the way in which representative government in Hong Kong has evolved. The District Boards are primarily local advisory bodies, although they are consulted on some territory-wide issues which may have a significant impact on the 'man in the street'. The Municipal Councils have executive authority at regional level for the provision of services essential to public health and the well-being of the community. The Legislative Council enacts laws, controls public expenditure and is increasingly involved in advising on the formulation of government policy. Close links between the various representative bodies have been facilitated by cross-membership between the District Boards and the Municipal Councils and by the electoral college system of elections to the Legislative Council.

29. The structure of three separate but inter-connected levels of government, which is illustrated in the diagram at Appendix B, is thus clearly defined. There has been some comment, however, that in a territory as small and geographically compact as Hong Kong it is superfluous to have three levels. In particular, attention has been drawn to an apparent similarity of role between the District Boards and the Municipal Councils in some aspects of district affairs, and to the cost of administrative and support staff for the extensive network of committees and advisory bodies. Some commentators suggest that either the District Boards or the Municipal Councils should be abolished and their functions combined, or that they should be merged to create four or five regional bodies, each with both executive and advisory functions.

30. On the other hand, there are strong arguments for retaining the present three-tier structure. It has encouraged public participation in the conduct of government at all levels and has enabled the Government to receive advice from an increasingly wide range of people. Key municipal services are provided efficiently and cost-effectively and the present administrative arrangements ensure that services and projects are developed and provided in accordance with broad regional priorities.

31. The abolition of either the district or the regional level of representative government, or their merger to form a number of municipal boards, would cause a major disruption in the structure and conduct of representative government at a time when stability and consolidation of the system must be a prime objective. Either course would necessitate a complete re-organization of the support provided by government departments at the district and regional levels and could lead to a loss of efficiency and to potentially wasteful competition for resources.

32. It is therefore not proposed in this review to consider options which would so seriously upset the established pattern of development of the system or

disrupt the operations of existing statutory authorities and their administrative arrangements. There have, however, been other suggestions for changes in the composition and functions of the District Boards and the Municipal Councils, and in the relationships between the two, which do not imply major changes in the present structure. They are considered in later sections of this Chapter.

### **The District Boards**

33. At the level of district management, the 19 District Boards now advise on a wide range of issues which affect the residents of their districts. In all districts, committees have been established under the Boards to enable more detailed advice to be given on matters such as traffic and transport, environmental improvement, community building and social services.

34. The Government also consults District Boards on selected major territory-wide issues. District Board members are an important channel through which members of the public make known their views on government policies, raise specific complaints and make suggestions on the performance of departments. Their role in the consultative process is reflected in the wide range of contacts which District Board members are developing with the community.

35. To date there has been no systematic exercise to gather public opinion on the contribution which District Boards are making to the system of government. The opinion surveys which have been carried out have been limited in scope but, nevertheless, show that the great majority of respondents consider that the District Boards are playing a positive role and have been effective in promoting improvements in the living environment, public transport services and community facilities in their districts, and in conveying public complaints to the departments concerned. The notable increase in the turnout of voters at the second round of District Board elections in March 1985, when 476,000 electors turned out to vote compared with 336,000 in 1982, is also an indication of increasing public recognition of the role of the District Boards.

36. A review of the opinions of District Board members on the effectiveness of the District Administration Scheme was carried out in early 1987. The issues on which District Boards were consulted included the adequacy of present arrangements for consulting the Boards; their role in district management; the desirability of further changes in their composition; and the relationship of the Boards with the Municipal Councils and the Legislative Council. The operating procedures of the Boards were also reviewed and, as a result, several improvements are being implemented.

### ***Role of District Boards***

37. The review showed that most District Board members were of the view that the role of District Boards should remain primarily advisory. However, they considered that, notwithstanding the care taken to consult them on appropriate issues, their advice was not acted upon by government departments

to the extent that they would wish. Many Board members felt that closer links between the District Boards and District Management Committees would help to remedy this, by enabling them to monitor, more effectively, the impact of their advice on the administration of the district. (Under present arrangements, it is the District Management Committees, composed entirely of government officials, which are responsible for ensuring that the services and activities of government departments are effectively co-ordinated to meet specific district needs.)

**38.** Most District Board members considered that, in addition to their advisory role, District Boards should be enabled to take decisions on certain matters of district concern. The view was also expressed that the Boards should assume a role in the management of certain district community facilities, although it was recognized that the scope of authority of the Boards would have to be clearly defined.

**39.** The options which have been suggested for possible changes in the role of the District Boards are:

- (i) to make no change in the present role of the Boards, but to ensure that the Boards' advice is accepted whenever possible and acted upon promptly;
- (ii) to empower the Boards to take decisions and to direct the actions of government departments on certain matters of concern specifically to their district;
- (iii) to give to District Boards a role in the management of certain district facilities.

**40.** As regards option (i), the Government accepts that District Boards can reasonably expect their advice to be taken unless it conflicts with policies or priorities laid down at the central or regional levels of government. Steps have already been taken to ensure that, wherever possible, the advice of District Boards will be taken and that, where this is not possible, full explanation is given.

**41.** Options (ii) and (iii) offer means of enhancing the role of the District Boards, provided it proves possible to identify a range of issues on which decisions can be taken at the district level. It would, however, be necessary to consider the implications of such developments for policy at the regional and central government levels and for the management and raising of public funds. In particular, it would be necessary to distinguish clearly between the areas of authority of the District Boards and those of the Municipal Councils.

#### ***Composition of District Boards***

**42.** Another important issue considered by Board members was whether District Boards should continue to include appointed and ex-officio members as well as elected members. At present District Boards are made up of elected and appointed members, who are in a ratio of approximately 2:1. In addition,

Urban Councillors and the Chairmen of Rural Committees are ex-officio members of urban and New Territories District Boards respectively.

43. Most District Board members expressed support for retaining appointed members, in the interests of continuity and of achieving a balance of local knowledge and experience on the Board. Some, however, felt that the proportion of appointed members should be reduced. Members of New Territories District Boards were also strongly in favour of Rural Committee Chairmen continuing to be ex-officio Board members as a means of ensuring that the interests of residents of rural areas are adequately represented. On the other hand, most members of urban District Boards were not in favour of Urban Councillors continuing to be ex-officio District Board members for reasons which are discussed more fully in paragraphs 59 and 60 below.

44. In the light of the foregoing, the options for change in the composition of the District Boards in 1988 would seem to be:

- (i) to make no change to the present proportions of appointed and elected members;
- (ii) to reduce the proportion of appointed members;
- (iii) to withdraw Urban Councillors from ex-officio membership of urban District Boards.

45. As regards options (i) and (ii), the present ratio of elected and appointed District Board members was introduced following the 1984 Review of the District Administration Scheme. The changes introduced in 1985 to the composition of the District Boards, namely the withdrawal of all official members (including the Chairmen) and a doubling in the number of elected members, were regarded by some as premature in the light of the short time the Boards had existed. This would tend to argue against further change to the relative proportions of elected and appointed District Board members in 1988.

46. Option (iii) raises the wider question of the relationship between the Urban Council and the urban District Boards, which is discussed more fully in paragraphs 59–65 below.

### The Municipal Councils

47. The Municipal Councils are statutory bodies responsible for providing the following three main categories of services:

- (a) *Public health services*: street cleansing and refuse collection; food hygiene, including the licensing and inspection of restaurants; pest control; the management of hawkers and markets, abattoirs, cemeteries and crematoria.
- (b) *Cultural services*: the construction and management of performing arts centres, public libraries and museums.
- (c) *Recreation services*: the construction and management of parks, swimming pools, gardens and recreational open spaces; the management of public beaches and a wide range of indoor and outdoor sports facilities.

48. Both Councils are financially autonomous and derive most of their income from a share of the rates paid by property owners. They also obtain revenue from licence fees and miscellaneous hire charges. This income is used mainly to pay for running the Urban Services and Regional Services Departments, through which the Councils discharge their executive responsibilities; and in the case of the Urban Council to finance an extensive capital works programme.

49. While both Councils fulfil largely the same functions, there are differences in their composition and methods of operation. These reflect in part their different historical origins and in part the different characteristics of the regions they serve.

### ***The Urban Council***

50. The Urban Council provides services to some 3.6 million people living on Hong Kong Island and in Kowloon. It is composed of 30 members: 15 appointed by the Governor and 15 directly elected on a constituency basis. The Chairman is elected by the Council from amongst its membership. The executive authority of the Council is exercised through the Standing Committee of the Whole Council and its thirteen Select Committees. These deal with Administration; Capital Works; Culture; District Relations; Entertainment; Environmental Hygiene; Finance; Food Hygiene; Libraries; the Liquor Licensing Board; Markets and Street Traders; Museums; and Recreation. In 1987-88 the Council controls recurrent expenditure of the order of \$2,250 million and oversees the work of over 17,000 staff in the Urban Services Department.

51. In recent years the Urban Council has played a key role in developing a network of efficient municipal services to create a cleaner, healthier and more attractive city environment. It has also played a prominent part in enriching life in Hong Kong by developing cultural, recreational and leisure facilities.

### ***The Regional Council***

52. The Regional Council provides services to about 2 million residents of the New Territories. It is composed of 36 members: 12 appointed, 12 directly elected by geographical constituencies, nine indirectly elected from New Territories District Boards and three ex-officio (namely the Chairman and two Vice-Chairmen of the Heung Yee Kuk). The Chairman of the Regional Council is elected from among the members.

53. The Council has three Select Committees which deal with Finance and Administration, Environmental Hygiene and Recreation and Culture. It also has nine geographically-based District Committees which deal with most operational matters, thereby relieving the full Council of a lot of minor business. Each District Committee is made up of eight Regional Councillors, four District Board members and three members from other local organizations in the district concerned. They are chaired by the District Board member whom

the Board has elected to the Council. In 1987-88 the Council controls a budget of \$1,000 million, and oversees the work of nearly 9,000 staff in the Regional Services Department.

### ***The need for two councils***

54. Before the creation of the Regional Council, the view was expressed that, instead of creating a second statutory municipal authority, the powers of the Urban Council should be expanded to cover the New Territories. The Government took the view, however, that a single large council would be unwieldy, and not necessarily more efficient and economical in its operations than two smaller councils.

55. Since the establishment of the Regional Council, some have continued to argue that the two Councils should be amalgamated in order to streamline administrative procedures and to economize on resources. However, the general view appears to be that the decision to establish a second municipal council was correct, having regard to the different geographical and social characteristics of the New Territories. Large areas of the region are still rural in character, with much unplanned temporary housing and industrial development which present problems in the provision of basic sanitation and cleansing services. (Those parts of the region which are urbanized, namely the new towns, have generally been developed with the necessary modern infrastructure of public services and a full range of community facilities.)

56. On the other hand, the areas for which the Urban Council is responsible are, for the most part, fully developed and densely populated. They include many older urban areas where there is a need to improve the living environment of residents and to implement improved standards of provision for facilities such as markets, libraries, cultural centres and sporting and recreation facilities. It would clearly be difficult for a single municipal council to develop and implement policies which could be applied throughout areas with such diverse needs and characteristics.

### ***Recent views on possible change***

#### **The Regional Council**

57. It is too early to evaluate fully the impact of the Regional Council, but experience to date suggests that it manages efficiently and economically the provision of municipal services in the New Territories. The arrangements under which District Board members are elected to sit on the Council and the setting up of District Committees have provided an opportunity for the views of local district representatives to be taken into account in the planning and provision of services and facilities. There is thus no strong indication of a need for change in the composition, structure or operating arrangements of the Regional Council.

## The Urban Council

58. There have been suggestions, however, that changes should be made in the composition, structure and working arrangements of the Urban Council, to bring it more in line with the Regional Council and to improve its relationship with the urban District Boards.

### *Relationship with the urban District Boards*

59. The present arrangements under which all elected Urban Councillors are ex-officio members of a District Board, and appointed Councillors are also nominated by the Council to sit on a District Board, were introduced in 1982 when the full District Administration Scheme was first implemented. The intention of these arrangements was to strengthen the relationship of the Urban Council with the local community by enabling greater public participation and consultation at the local level and placing greater emphasis on the importance of district-based planning.

60. This system of cross-membership between the Urban Council and urban District Boards has been criticized by many District Board members. They consider that most Urban Councillors do not show sufficient interest in district affairs and, as a result, have not been able to represent adequately in the Council the views and interests of District Board members, or to provide an effective link between the district and regional levels of government. Most District Board members see little point in Urban Councillors continuing to sit on District Boards.

61. In countering this view, the Urban Council has pointed out that, in addition to Councillors sitting as Board members. District Boards are kept fully informed of all aspects of the Council's work and, in particular, are closely involved in the planning and organization of district cultural and recreational programmes, and in setting priorities for new capital works projects. On the whole, they feel that the present relationship between the Boards and the Council is working satisfactorily and that, rather than introducing structural changes, efforts should focus on improving channels of communication and day-to-day working relationships between District Board members and Urban Councillors. Some Councillors, however, have acknowledged that their dual role as Urban Councillor and District Board member can at times place them in an awkward position, when district interests must clearly take second place to wider regional priorities for the provision of services.

62. If it is considered, in the light of the criticisms recorded in paragraph 60 above, that Urban Councillors should no longer be ex-officio members of District Boards, it would be necessary to identify alternative ways of providing links between the Boards and the Council. The options which have been suggested are:

- (i) to replace the present system of direct elections to the Council by a system of indirect election of Urban Councillors from among District Board members;

- (ii) to provide more opportunities for District Board members to participate directly in the work of the Urban Council and its Select Committees;
- (iii) to expand the membership of the Urban Council to include either:
  - (a) a representative of each urban District Board, elected to the Council from among Board members (i.e. the system used by the Regional Council); or
  - (b) the Chairman of each urban District Board as an ex-officio member.

**63.** Those who support option (i) consider that it would improve communication between the District Boards and the Council and would provide opportunities for District Board members to gain wider experience of government at the regional level. However, to discontinue direct elections to the Urban Council would be regarded by many as a retrograde step, particularly having regard to the long history of elected membership on the Council. Such a change would also call into question the composition of the Regional Council, only a short time after its establishment.

**64.** There are a number of ways in which option (ii) might be achieved:

- (a) District Board Chairmen or their nominated representatives could attend Select Committee meetings, or even meetings of the Standing Committee of the Whole Council. Although the Board members would have no voting power, they would have more opportunity to represent directly the views of their districts on matters of concern to them.
- (b) The present policy, which requires an urban District Board member who is subsequently elected to the Urban Council to give up his District Board seat, could be relaxed. There is no requirement for Regional Council members to give up their District Board seats.

If one or both of these measures were supported, it would be for consideration whether they should be introduced as a supplement to the existing cross-membership arrangements or instead of them. Neither course would necessarily satisfy the criticisms of District Board members.

**65.** Option (iii) is that preferred by most District Board members, as it would enable the urban District Boards to participate directly in the decision-making process of the Urban Council, in the same way as their counterparts in the New Territories participate in the work of the Regional Council. It would also help to ensure that the views of district residents are fully reflected on the Council. Members of the Urban Council consider, however, that the inclusion of members elected both directly and indirectly from the same geographical areas would bring into question the representative status of each type of member, even though this does not seem to have been a problem so far on the Regional Council.

### *Size of the Urban Council*

66. If option (iii) above were to be implemented, it would increase the size of the Urban Council by ten members and alter the balance in the numbers of appointed and elected members. Separate suggestions have been made, however, that the Urban Council should be expanded because it is at present smaller (30) than the Regional Council (36), even though it serves a much larger population.

67. An increase in the size of the Urban Council may therefore be considered desirable in itself. If so, bringing District Board representatives onto the Council is one possible option (see paragraphs 62–65 above). Others would be:

- (i) to increase equally the number of appointed and directly elected members;
- (ii) to increase the number of directly elected members only.

Both these options would enable the heavy workload of the Urban Council to be shared amongst more Councillors. They would also make it possible to reduce, to some extent, the size of Urban Council electoral constituencies which average 230,000 people, compared with those of the Regional Council which range from 45,000 people in the Sai Kung constituency to 240,000 people in the Tsuen Wan constituency.

### *Structure of the Urban Council*

68. There have been suggestions that another means of improving the links between the Urban Council and District Boards would be to establish district committees under the Urban Council, similar in function to those which have been set up under the Regional Council. Such committees could, in theory, be established whether or not it is decided that District Board representatives should become members of the Urban Council.

69. Some who have commented on this suggestion, particularly members of the Urban Council, consider it impractical to attempt to manage services in this way in the urban areas because the relatively small size of urban districts, and the need to make the most efficient use of limited land resources, make it imperative to plan services and facilities having regard to the needs of the region as a whole. In particular, if over-provision is to be avoided, not all districts can have a full range of all types of facilities.

70. Others, while acknowledging the practical arguments against a district-based approach to the management of municipal services in Hong Kong Island and Kowloon, nevertheless consider that the setting up of committees with responsibilities covering several districts or a sub-region would complement usefully the work of the functional Select Committees and enhance co-operation between districts and the Council.

71. In the light of the above considerations, the options would seem to be:
- (i) to make no change to the committee structure of the Urban Council;
  - (ii) to establish sub-regional committees with responsibilities covering more than one district, either:
    - (a) in addition to the existing Select Committees of the Council; or
    - (b) to replace the functions of some existing Select Committees.
72. Option (i) is that favoured by the Urban Council, which sees no advantage in changing its well-established committee structure and system of operational control.
73. Option (ii) could promote closer working relationships between the Urban Council and urban District Boards, but it might result in a less efficient and cost-effective method of providing municipal services. In particular, option (ii)(a) might lead to a duplication of effort between the sub-regional committees and the Select Committees. Option (ii)(b) would reduce the risk of overlap between the responsibilities of sub-regional committees and Select Committees, but very careful thought would be required to decide which services might be more effectively managed on a sub-regional basis, and which centrally.

## CHAPTER IV

# THE LEGISLATIVE COUNCIL

### **The Functions of the Legislative Council**

74. The primary function of the Legislative Council is the enactment of legislation, including legislation for taxation and for the appropriation of public funds. Ten officials of the Administration are responsible for introducing government business and legislation into the Council. The remaining Members of the Legislative Council, who are not officials, are able to question the Administration on public issues for which it is responsible and to debate questions of policy. They are also involved in advising on the formulation of government policies, through participation in advisory committees and specialist panels and by studying and commenting on draft bills and policy documents.

75. There are two Standing Committees of the Legislative Council: the Finance Committee and the Public Accounts Committee. The Finance Committee, which has two Sub-Committees dealing with the establishment of the public service and the Public Works Programme, scrutinizes all public expenditure and approves the financial implications of new policies and programmes. The Public Accounts Committee examines and reports on the findings in the Director of Audit's Report on the Government's annual statement of accounts.

76. Since the start of the 1985/86 session, when membership of the Legislative Council was increased from 45 to 56, the volume of work has developed substantially. The frequency of Council meetings has increased from fortnightly to weekly. The Council's role in scrutinizing legislation, and in helping to shape Government policies, has been further developed in Select Committees and in numerous ad hoc groups and panels. Council Members regularly meet a wide cross-section of people, and thus keep closely in touch with public opinion. They have also travelled extensively overseas on fact-finding missions. The Council's role as monitor of the performance of the Government is increasingly displayed in the Council Chamber, both at question time and in debates on issues of public concern or current interest.

### **Composition of the Legislative Council**

77. In addition to the President, the Council is now made up of:

- (a) *10 Official Members*: three public officers ex-officio (the Chief Secretary, the Financial Secretary and the Attorney General), and seven others appointed by the Governor.
- (b) *22 Appointed Members*: appointed by the Governor.
- (c) *24 Elected Members*: 12 elected by the nine functional constituencies and 12 by the electoral college, details of which are at Appendices C and D respectively.

78. Paragraphs 79-96 below review developments since the publication of the 1984 White Paper, and discuss possible options for changes in 1988, in respect of each of these categories of Members. In considering these options, it is necessary to bear in mind the question of the overall size and balance of the Council: this question is discussed further in paragraphs 111-115 of this Chapter.

### ***Official Members***

79. Following the adoption of the 1984 White Paper, the number of Official Members who carry out the duties described in paragraph 74 above was reduced from 18 to 10. Experience since then indicates that this is the minimum number required to maintain the efficient conduct of public business in the Council, and to ensure that all major aspects of government activities are represented and can be satisfactorily answered for. If, as seems likely, the burden of work of the Council continues to increase, the number of Official Members could not be further reduced without an unacceptable reduction in the capacity of the Administration to carry out its duties effectively in the Council. The only feasible options for 1988 are that the number should be either maintained or increased slightly.

### ***Appointed Members***

80. The 1984 White Paper took the view that, if an element of continuity was to be maintained in the working of the Legislative Council, it would be unwise to reduce the number of Appointed members appreciably or too hastily.

81. There has been little suggestion, since the publication of that White Paper, that the practice of appointing Members to the Legislative Council should cease in the short term. The system of having some Members appointed by the Governor will have to be changed at some time in the future, to conform with the provisions of the Joint Declaration. Nevertheless, the retention of Appointed Members in the immediate future would enable the Legislative Council to continue to benefit from the contribution of able persons who represent a wide range of experience and understanding of sectors important to the well-being of the Hong Kong community, complementing the experience and interests of other Members.

82. In the light of the discussion of this issue in 1984 and since, the options for Appointed Members for 1988 would seem to be:

- (i) to retain the same number as at present;
- (ii) to make some reduction.

### ***Members elected by the functional constituencies***

83. The 1984 Green Paper envisaged that the creation of functional constituencies, on a formal basis, would be a development from the previous

informal system of the Governor appointing Members from a wide range of professional and occupational groups, through which much specialist knowledge and valuable expertise had been provided to the Council.

84. The concept of functional constituencies has been criticized as elitist and unduly advantageous to the groups represented. On the whole, however, comments on the system have been favourable, and there have been suggestions that the number of seats should be increased to enable other significant sectors of the community to be thus represented.

85. It was made clear in 1985 to sectors which complained of being left out, that they would continue to be represented through the appointment system. Nevertheless, since the 1984 White Paper, a number of professional bodies and organizations, a list of which is at Appendix E, have requested formal recognition as functional constituencies. Some (e.g. accountants) have sought to become new functional constituencies, while others (e.g. dentists) have sought inclusion in an existing constituency. At the same time, in at least two constituencies which are made up of two or more professional groupings, some of the numerically smaller groups (e.g. architects in the Engineers and associated professions constituency) have expressed the view that their interests are inadequately represented because they are heavily outnumbered.

86. There has also been some criticism of the voting arrangements at the 1985 elections. Some social workers and members of labour unions were unhappy that votes in their respective functional constituencies were given to social welfare agencies and labour unions as such, and not to individual members. This was done because of the difficulty of defining qualifications for membership of these constituencies. The type of preferential voting system used in the elections was also criticized and will need to be re-examined: this point is covered in paragraphs 141–145 below.

87. Most of the views expressed continue to be in favour of retaining functional constituencies as a system for selecting members of the Legislative Council. The range of constituencies will be considered in the light of public response to the Green Paper to see whether other sectors of the community should be thus represented in the Council.

### Options for 1988

88. The options for 1988 would therefore seem to be:

- (i) to retain the present nine constituencies electing 12 Members to the Legislative Council;
- (ii) to maintain the existing number of constituencies but to enlarge the scope of some constituencies, with or without an additional seat in the Legislative Council allocated to them;
- (iii) to create new constituencies with their own seats in the Legislative Council.

89. In view of the representations which have already been made by various groups for recognition as functional constituencies, option (i) would undoubtedly leave many dissatisfied. Option (ii) would enable some existing constituencies to be more widely representative. It might, however, lead to problems if too many different professional or interest groups were included within one constituency. Such problems could be reduced to some extent if the constituencies concerned were provided with more than one seat. Option (iii) would be favoured by those sectors seeking recognition as functional constituencies. In considering whether an additional group or groups might be included, the following guidelines may be useful:

- (a) functional constituencies should be substantial and of importance in the community;
- (b) any new constituency should be clearly defined to avoid difficulties over who qualifies for inclusion and how the electorate is prescribed;
- (c) constituencies should not be based on ideology, dogma or religion;
- (d) particular groups or bodies should not be represented in more than one functional constituency.

#### ***Members elected by the electoral college***

90. The principal objective of the electoral college system is to select some members of the Legislative Council on the basis of a reasonably balanced geographical distribution of seats. Although membership of the college is limited to members of District Boards and the Municipal Councils, the electoral college may nominate and elect any person who is a registered elector on the general electoral roll and who has resided in Hong Kong for at least ten years immediately before the date of nomination. In the 1985 elections, all candidates nominated were sitting members of District Boards or the Urban and Regional Councils.

91. Before the 1985 elections, the concept of the electoral college was generally well received, although some said that members of the college should not be given the right to decide, on behalf of the general public, who is suitable to sit on the Legislative Council.

92. The arrangements for the 1985 elections gave rise to certain criticisms in respect of the ten District Board constituencies of the electoral college. The way in which districts were grouped together was thought, in some cases, to have linked together areas which had little in common. Specific examples quoted were the South New Territories constituency, which is made up of the Tsuen Wan, Islands and Sai Kung Districts; and the East Island constituency where the relatively small Wan Chai District is merged with the much larger Eastern District.

93. The voting system used in the 1985 elections has also been criticized. The repeated ballot system, it is said, created factions in individual District Boards and competition between separate District Boards in the same constituency. Voting arrangements are reviewed in paragraphs 146–148 below.

**94.** Nevertheless, the electoral college system has undoubtedly fostered closer links between the different levels of government and has brought into the Legislative Council a number of Members experienced in local affairs.

### Options for 1988

**95.** The options for 1988 would appear to be:

- (i) to retain the present 12 constituencies, each electing a Member to the Legislative Council;
- (ii) to maintain the existing number of constituencies but to reorganize some geographical constituencies to provide for a more compatible grouping of districts, with an additional seat allocated to constituencies which are particularly large or diverse in character; or
- (iii) to increase the number of geographical constituencies to enable each District Board to elect a representative to the Legislative Council.

**96.** Option (i) would leave the criticisms recorded in paragraph 92 above unanswered. Option (ii) would overcome the criticisms to some extent, without increasing greatly the number of electoral college seats. Option (iii) would eliminate rivalries between District Boards, but would require an additional nine seats in the Legislative Council, making 21 from the electoral college. It would also result in a large district such as Kwun Tong, with a population of 678,000, having the same representation in the Council as a small district such as Sai Kung with a population of 45,000. More evenly distributed representation with, for example, each electoral college Member representing a constituency of some 250,000, would require still further seats in the Legislative Council. This could in turn alter the balance of membership in the Council and might lead to renewed criticism that District Board and municipal council members are given too much influence in the Legislative Council.

### Suggestions for New Forms of Election

**97.** A primary consideration is whether, in furthering the development of a more representative legislature, it would be better to rely on the maintenance or development of existing systems, or to introduce additional systems of representation.

**98.** In considering this question, it should be borne in mind that many channels are already available through which the views and concerns of the community can be made known to the Administration. In addition to the principal institutions of representative government, namely the District Boards, the Urban and Regional Councils, and the Legislative Council, there is an extensive network of boards and committees on which many hundreds of people participate, advising the Government on a wide range of local and territory-wide issues, up to and including the most important policy decisions. The Government intends to maintain and further develop these channels.

**99.** On the other hand, Section 1 of Annex I to the Joint Declaration provides, amongst other things, that 'the legislature of the Hong Kong Special Administrative Region shall be constituted by elections'. This provision will, in

accordance with paragraph 3(12) of the Joint Declaration, be stipulated in the Basic Law to be passed by the National People's Congress of the People's Republic of China. The Basic Law, which is in the process of being drafted, may also specify the method or methods of election which will be used for the constitution of the legislature of the Hong Kong Special Administrative Region after 1997.

**100.** This provision clearly has implications for the composition of the legislature in the longer term and, in particular, for the future of the present groups of Official and Appointed Members. Suggestions have been made, in the context both of the development of representative government and of the drafting of the Basic Law, that new forms of election to the legislature should be considered in addition to, or as a further development of, the existing functional constituency and electoral college systems. These are now discussed.

### ***Direct elections***

**101.** One suggestion is that a proportion of the members of the legislature should be directly elected on a universal franchise. A similar suggestion was discussed in the 1984 Green Paper. The 1984 White Paper concluded that further consideration would be given to the issue in the 1987 Review.

**102.** Since the publication of the 1984 White Paper, opinions have continued to be expressed for and against the introduction of direct elections, although a substantial part of the community has not openly expressed a view.

**103.** Those who favour the introduction of a directly elected element into the Legislative Council believe that it would produce Members who are able to speak directly for the people of Hong Kong, and thus better ensure that the views and interests of Hong Kong people are being taken into account when important decisions are made. They see direct elections as the best means of securing a government which is truly representative and accountable, and thus able to carry out its policies with the support of the majority of Hong Kong people.

**104.** Others, however, believe that direct elections might be manipulated by small, highly-motivated groups to secure the election of candidates not generally representative of the whole community, especially if the turnout of voters were low. Some point out that direct elections might lead to confrontational politics, and perhaps also to the emergence of political parties. In their view such developments could undermine internal stability as well as overseas confidence in the territory's future, thus endangering its economic prosperity.

**105. *Timing.*** Some have argued that, since the present systems for elections to the Legislative Council have been in place for less than two years, it is premature to contemplate introducing another form of election even if changes are to be made later. Some have also argued that no change should be made until the

system to be used for elections after 1997 is clarified by the Basic Law. Others, however, have argued that, if a stable system of representative government is to continue to develop, and if the momentum of such continued development is not to be lost, then a small proportion of directly elected Members should be introduced into the Legislative Council in 1988. Only a very few have suggested that there should be a rapid move towards having a substantial proportion of Legislative Council Members directly elected. Rather, there has been a wide measure of agreement on the importance of maintaining a carefully considered approach.

**106. *Methods of election.*** There has also been discussion as to whether, if there were to be direct elections, they should be conducted through a single territory-wide constituency, a small number of large geographical constituencies, or a larger number of smaller geographical constituencies. A single territory-wide constituency would require that candidates have substantial financial resources and organizational support in order to reach out to all voters. On the other hand, to conduct direct elections through geographical constituencies would introduce a second system of geographical representation alongside the existing electoral college. This could invite comparison between the representative status of directly elected Members and Members elected by the electoral college, and throw into question whether the two categories should co-exist, although it could be argued that different forms of election might produce different types of candidate.

#### **Options for 1988**

**107.** In the light of the above considerations, there is a range of possible conclusions on the question of whether there should be an element of directly elected Members in the Legislative Council. They are:

- (i) that direct elections to the Legislative Council are not desirable;
- (ii) that in principle some element of direct elections is desirable, but that it should not be introduced in 1988;
- (iii) that a directly elected element should be introduced in 1988, in addition to the existing categories of Members, through either a single territory-wide constituency or a number of geographically-based constituencies;
- (iv) that there should be an element of directly elected Members in 1988 as in option (iii), but that they should replace those Members elected by the geographical constituencies of the electoral college.

#### ***A new electoral college***

**108.** Another idea that has been put forward in connection with the drafting of the Basic Law is that, in the longer term, a proportion of the members of the legislature might be elected by a new, broadly-based electoral college. It has been suggested that this might consist of several hundred persons drawn

from the legislature, the Municipal Councils and District Boards, statutory and non-statutory organizations and various other sectors of the community.

**109.** Those who favour this concept consider that such a body would be broadly representative and therefore likely to ensure that the legislature would continue to benefit from the talents and experience of members representing a wide range of interests. They also see the new electoral college as a means of reducing the risk of confrontational politics. Others have, however, questioned the representativeness of such a body, on the grounds that many of the proposed members might be persons who have themselves not been chosen by elections. Questions have also been raised as regards the criteria both for identifying the organizations and sectors to be included in the college and for determining the number of representatives for each of them.

**110.** The concept of a new electoral college would need to be further developed before a conclusion could be drawn on whether such an arrangement would be desirable. A considerable amount of further thought and discussion would be required on issues such as the exact composition and membership of such a college, the proportion of members of the legislature to be elected by it and the procedures to be adopted for nominating and electing candidates. The concept of a new, broadly-based electoral college is therefore put forward as a matter for discussion for the longer term, rather than for consideration as an option for 1988.

### **Size and Balance of Membership of the Council**

**111.** This Chapter has discussed a range of options for change to the composition of the Legislative Council in 1988. The merits and demerits of each option can be evaluated separately. However, the cumulative impact of different combinations of options on the overall size and balance of membership of the Council must not be overlooked.

**112.** Certain combinations of options would not necessitate a significant increase in the overall size of the Council; but others would. The number of Council Members (excluding the President) was increased from 45 to 56 in 1985. The addition of more Members has undoubtedly helped in sharing out an increasing workload; but it has also contributed to the workload itself, as more Members wish to speak in debates, comment on legislation and question the Administration.

**113.** A reasonable balance has to be sought, so that while all individual Members are able to contribute to Council proceedings as fully as they wish, the business of the Council is also conducted efficiently. A small increase from the present 56 Members would not have significant implications for the conduct of the Council's business: by contrast, a large increase in the short term could well require major changes in the way in which the Council's business is organized and managed.

**114.** Certain options or combinations of options would have a greater impact than others on the balance of membership in the Council. At the time of publication of the 1984 Green Paper, all Members of the Legislative Council were appointed by the Governor and, although Unofficial Members were in the majority, Official Members still constituted some 38 per cent of Council Members. In September 1985, following the implementation of the White Paper proposals, the proportion of Official Members fell to 18 per cent and of Appointed Members from 62 per cent to 39 per cent.

**115.** In the light of the significant change in 1985 in the overall balance of membership, the effects of any option which would involve further significant changes in 1988 must be carefully evaluated. The community will expect that its representatives in the Council continue to reflect the full spectrum of its interests, with a balance of experience and vigour, at the same time avoiding confrontational politics and taking a pragmatic approach to the problems of the day. In particular, the capacity of the Government to carry forward effectively the conduct of public business, and to answer for its responsibilities in the Council, must be maintained.

## CHAPTER V

### THE PRESIDENCY OF THE LEGISLATIVE COUNCIL

116. The Governor of Hong Kong is at present also the President of the Legislative Council, and exercises certain powers in regard to the Council in each of these two capacities.

117. *As Governor* his powers include:

- (a) to assent to, or withhold his assent from, legislation passed by the Council;
- (b) to appoint the dates on which the annual session of Council begins and ends;
- (c) to address the Council at the first sitting of each session as of right;
- (d) to determine whether a sitting be held outside the normal session;
- (e) to make or withhold a recommendation that a petition or motion be received in the Council where it refers to taxes, charges on the revenue etc;
- (f) powers in regard to the attendance of persons to give evidence, and to their giving evidence before the Council or a committee;
- (g) to dissolve the Legislative Council.

118. *As President* his powers include:

- (a) to ensure observance of the rules of order and of debate in all proceedings;
- (b) to control the agenda;
- (c) to nominate members of committees;
- (d) to accept a motion to adjourn for the purpose of debate of an urgent public matter;
- (e) to extend a sitting beyond 6 p.m.
- (f) to determine the result of a vote on the 'voices', or to conduct a formal voting procedure.

119. The 1984 Green Paper discussed the proposal that the Governor should be replaced as President of the Legislative Council. The White Paper recorded that although the proposal was on the whole reasonably well received, it seemed clear that the general view was in favour of making no significant change in the position of the Governor during the next few years: the matter would therefore be reconsidered in 1987.

120. The response to the 1984 Green Paper revealed a general perception that the Governor's role as President of the Legislature was an important aspect of his position as head of the Government. His withdrawal from the Legislature was regarded by many as a significant step, to be taken only after careful thought and at the right time.

**121.** The Governor has a fundamental role to play in the legislative process. Laws are made by the Governor, by and with the advice and consent of the Legislative Council. The presence of the Governor is symbolic of the status of the Legislative Council, and adds to the dignity of its proceedings. The Governor, as President of both the Executive and the Legislative Councils, provides at least a symbolic link between the two Councils. Furthermore, it is valuable for the Governor to be able to hear and witness at first hand Councillors expressing their views on the issues of the day, and to observe how their opinions are developed and presented.

**122.** The question has nevertheless been raised whether it is appropriate for the Governor, as the principal executive authority and head of the Executive Council, to remain as the impartial President of the Legislature. It has been suggested that this dual role may lead to a conflict of interest.

**123.** If it were considered desirable, the Governor could be replaced as President of the Council by a person from outside the Council or by another Member of the Council. Such a step would not affect his powers as Governor in regard to the Council (see paragraph 117 above). Consideration would, however, need to be given to whether the new President should exercise all the powers now attached to the Presidency (see paragraph 118 above). The person concerned would need to be of appropriately high standing in the eyes of the community and the Legislature. Past experience of the conduct of business of the Council would also clearly be desirable.

**124.** If it were concluded that the Governor should remain as President of the Council, it would be for consideration whether, in the light of his heavy commitments and other practical considerations, he might appoint another person to preside from time to time in his place. This might be the Chief Secretary, but could also be another Member of the Council or a person from outside the Council.

**125.** Possible options are:

- (i) no change;
- (ii) that the Governor might appoint some other person (either the Chief Secretary, another Member of the Council or a person from outside the Council) to preside in his absence for specific sittings or parts of sittings;
- (iii) that the Governor should withdraw from the presidency at some stage and be replaced by a Member of the Council or other person.

## CHAPTER VI

### PRACTICAL ASPECTS OF ELECTIONS

**126.** This Chapter deals with practical issues relating to the organization and conduct of elections to the District Boards, the Municipal Councils and the Legislative Council. It discusses whether or not changes should be made to:

- (a) the sequence and timing of elections to these bodies;
- (b) the terms of office of elected members;
- (c) the age of entitlement to vote;
- (d) the age of eligibility for candidature;
- (e) the voting systems used in elections; and
- (f) certain other electoral arrangements.

#### **Sequence and Timing of Elections**

**127.** The last elections were held in March 1985 for the District Boards, September 1985 for the Legislative Council and March 1986 for the Municipal Councils. As the District Boards and the Municipal Councils constitute the electoral college for part of the Legislative Council, it might be more logical if the Legislative Council elections came last, considering that:

- (a) it would be desirable for members of the District Boards and Municipal Councils to have worked together for a period before they are called upon to elect Members to the Legislative Council;
- (b) such a sequence would enable potential candidates and sitting members better to plan their candidature for the various levels of government.

The continued relevance of these considerations to future elections would, however, depend on whether any changes were made to the existing method of constituting the Legislative Council, and to the arrangements for cross-membership between the District Boards and the Municipal Councils.

**128.** If it were agreed that the sequence of elections should be changed, it would be necessary to adjust the timing of one or more of those elections, at least on one occasion. The following factors tend to limit the scope for such adjustment:

- (a) the timing of the Legislative Council recess suggests that August or September is the best time to hold Legislative Council elections;
- (b) as the operations of the Municipal Councils are geared to the government financial year from 1 April to 31 March, the Councils themselves are understood to prefer elections to them to be held in March, as they are now;

- (c) elections need to be held on a school or public holiday as school premises are used as polling stations;
- (d) it would be impracticable to combine all three types of election, given the separate electorate and different franchises for the Legislative Council. Technically it would be possible to combine the District Board and municipal council elections, but it could be confusing to electors to have to assimilate simultaneously campaign material from the two groups of candidates. Some candidates for the Regional Council and New Territories District Boards might object to having to campaign simultaneously for both institutions, or having to decide whether or not to contest one of the two.

129. A further point for consideration, regardless of whether the basic sequence of elections is to be changed, is the possibility of introducing an element of 'staggering' into the terms of office of Legislative Council Members, whereby different groups of Members serve terms of equal length but expiring at different times. Given the increasing volume and complexity of the Council's business, there may be merit in such an arrangement which would help engender a greater degree of continuity. It could be achieved by holding the functional constituency elections and the electoral college elections, neither of which involves the general electorate, in different years. The terms of office of Appointed Members could also be 'staggered', as in the past, if this is considered desirable.

#### ***Options for 1988***

130. The options for 1988 as regards the sequence and timing of elections would appear to be:

- (i) no change;
- (ii) to alter the basic sequence of elections to one in which the Legislative Council elections follow the District Board and municipal council elections, and either:
  - (a) make no other change; or
  - (b) introduce an element of 'staggering' by holding the functional constituency and electoral college elections to the Legislative Council in different years.

131. In the light of the considerations set out in paragraphs 128 and 129 above, one of the possible ways of implementing option (ii)(b), if it were generally agreed that this should be done, might be to adopt the following sequence for the next set of elections:

- (a) March 1988 for the District Boards;
- (b) August/September 1988 for the Legislative Council (either the 12 functional constituency seats or the ten District Board seats from the electoral college);
- (c) March 1989 for the Municipal Councils;

- (d) August/September 1989 for the Legislative Council (the two municipal council seats from the electoral college *plus* either the ten District Board seats from the electoral college or the 12 functional constituency seats).

If it were decided that a directly elected element should be introduced into the Legislative Council, it would be necessary to consider where the elections would best fit in.

### **Terms of Office**

**132.** Another aspect of the existing pattern of elections which merits examination is whether a three-year term of office is the most appropriate. Legislatures and similar bodies throughout the world have terms varying from two years to five years or more. The considerations appear to be:

- (a) a longer period offers increased stability and continuity as those elected will have more time to settle into their new role and acquire experience;
- (b) it would reduce the frequency of elections and the consequent possibility of a 'familiarity breeds contempt' attitude to voting. (There was some, albeit not much, criticism that three elections were held within a twelve-month period in 1985–86, even though the general electorate was involved in only two of the three elections); and
- (c) it would give the electorate more opportunity to assess the performance of its representatives before considering their renewed candidature at a following election; but
- (d) on the other hand, too long a term of office might discourage some potential candidates. It would also reduce the opportunity for the electorate to remove unsatisfactory performers.

**133.** It is for consideration whether the term of office of the District Boards, Municipal Councils and Legislative Council should remain at three years or be changed to, say, four years. Except for any once-only adjustment which may be made if the sequence of elections were to be changed (see paragraph 128 above), it is important that the terms of office of all these bodies should be of the same duration if they are not to get out of synchronization over time.

### **Age of Entitlement to Vote**

**134.** The present age of entitlement to vote in Hong Kong is 21 years. There has been some discussion on whether this should be lowered in the light of the recommendation in the Law Reform Commission's report 'Young Persons—Effects of Age in Civil Law' that, in general, the age of full capacity should be lowered to 18 years.

**135.** The Commission itself, while stating that logically it saw no reason for an exception to its general recommendation to be made in the case of voting, took

the view that lowering the age of entitlement to vote raised political and constitutional implications which would be better considered in a wider context.

**136.** Those who supported a lowering of the voting age said that, if persons aged 18 to 20 years were to be regarded as adults for other purposes, there would be no valid reason to deprive them of the privilege to vote. They considered that allowing such young persons to vote in elections would improve their social responsibility and lend greater meaning to civic education. Others, however, took the view that persons aged 18 to 20 years might not generally have sufficient maturity and political sense to be able to exercise their voting rights judiciously. Some felt that civic education needed to be improved first. (For comparison, public comments on the recommendation to lower the age of majority generally to 18 years were also mixed, with most of the unfavourable comments directed at the lowering of the minimum age at which parental consent for marriage is not required.)

**137.** The options for 1988 are either to maintain the voting age at 21 years or to lower it to 18 years. In considering which option to adopt the following factors would seem to be relevant:

- (a) it is estimated that there are about 290,000 persons aged 18 to 20 years in Hong Kong, representing about 5 per cent of the total population. If 15 per cent (an average proportion) is discounted for those who do not meet the residential requirement, some 250,000 persons would be eligible for registration as electors if the voting age became 18. It is difficult to estimate how many would actually register and vote;
- (b) under the existing systems of elections, lowering the voting age would increase the size of the electorate in respect of the District Boards and the Municipal Councils;
- (c) young persons aged 18 to 20 years will either be working after leaving school, finishing vocational training, studying for their matriculation or studying in a post-secondary institution;
- (d) most countries set the age of voting by reference to the age of majority. This is, however, not necessarily a reason at this stage for lowering the voting age in Hong Kong, which must form its own views on what is appropriate for its situation.

### **Age of Eligibility for Candidature**

**138.** The discussion on voting age also addressed the question of the age for candidature. There was general agreement that, regardless of whether the former was lowered, the latter should remain at 21 years. It is reasonable to require that those seeking office should possess sufficient maturity to discharge the responsibilities which would fall to them if elected. It is also relevant that the residence requirement for candidates (10 years) is already higher than that for voters (7 years).

## Voting Systems

### District Boards and Municipal Councils

139. The system of voting used in the 1985 elections to the District Boards, and in 1986 for the directly elected seats on the Municipal Councils, was the 'first past the post' system in which the candidate (or candidates in the case of multi-seat constituencies) with the largest number of votes won. The system worked well and there has been no suggestion for change.

### The Legislative Council

140. Feedback from candidates and members of the public, together with reviews conducted by the Administration, have identified the need to consider whether changes should be made to the voting systems used for indirect elections to the Legislative Council.

#### The functional constituencies

141. The preferential 'addition' system of voting was used in the functional constituencies in 1985. In this system, voters are required to mark down preferences on the ballot paper. The candidate who receives over 50 per cent of the first preference votes wins. If no such winner emerges, a second count is made in which second preferences are added to the first preference totals secured in the first count: the candidate who secures the highest aggregate first and second preference votes wins, provided the aggregate is more than 50 per cent of the basic number of voters. If no candidate wins, a third count taking into account third preference votes is carried out, and so on until a winner is declared.

142. There was criticism by some sectors of the community that the method of aggregating the number of first and subsequent preference votes could in theory result in a candidate with the fewest first preference votes winning the election, as in the following example (assuming 100 voters):

	Candidate		
	A	B	C
1st preference	45	45	10
2nd preference	15	20	65
	—	—	—
Total of 1st & 2nd preferences (3rd preference)	60	65	75
	(40)	(35)	(25)
	—	—	—
(Total votes)	(100)	(100)	(100)
	==	==	==

Candidate C wins despite having the least first preference votes, mainly because the method gives equal weight to first, second and subsequent preferences. It was claimed that, besides being unfair, this provided scope for manipulation whereby candidates could instruct their supporters to write in only their first

preference votes, in order to reduce the chances of other candidates gaining more votes overall. The preferential 'elimination' system, practised more widely elsewhere in the world, was suggested as a replacement.

**143.** The 'elimination' system, which also requires voters to mark preferences, differs from the 'addition' system in that higher preferences are given more weight than lower ones. The candidate with the fewest first preference votes is eliminated after the first count and his votes are redistributed to the remaining candidates, according to the second preferences marked on them. These are then aggregated with the first preference totals of the remaining candidates and a winner is declared if the leading candidate receives more than 50 per cent of the votes. If no winner is declared, the candidate with the lowest aggregate total is eliminated and his votes are redistributed to the remaining candidates according to the third preferences marked on them. The process is repeated until the leading candidate polls over 50 per cent of the votes. Taking the example in paragraph 142 above, candidate C who had the fewest first preference votes would be eliminated after the first count, and the ten ballot papers which show him as the first preference would then be redistributed to candidates A and B, according to the second preferences marked on them. Assuming that six of these ballot papers show candidate A as the second preference, then candidate A wins.

**144.** It was suggested that this 'elimination' system was preferable to the 'addition' system on the following grounds:

- (a) it would give greater weight to higher preferences, thereby reducing the degree of 'compromise' in the selection process; and
- (b) it would remove an incentive for candidates to encourage their supporters to mark down first preferences only (see paragraph 142 above). This would reduce the scope for manipulation as well as the possibility that no candidate obtains more than 50 per cent of the total votes cast.

**145.** Although, in practice, no particular problems arose from the preferential 'addition' system of voting in the functional constituency elections in 1985, there appears to be a case for considering whether it should be changed to the preferential 'elimination' system or some other system.

#### The electoral college

**146.** For the electoral college elections to the Legislative Council in 1985, the repeated ballot system was used whereby, if no candidate receives more than 50 per cent of the votes on the first count, electors vote again in another round following elimination of the candidate with the least first round votes. Ballots are repeated until one candidate obtains the majority support of his constituency.

**147.** There were two main criticisms of the system. The first was the length of time taken to secure a result in constituencies where several candidates were running: for example, it took seven hours and five ballots to secure a result in

the East Island constituency. The second was that candidates could more or less discern how the votes were cast at each ballot, i.e. who voted for whom. This caused embarrassment and, in some cases, enduring grudges between candidates.

**148.** It would appear that the repeated ballot system may not be the most suitable, particularly where two or more factions are involved in electing a single candidate, and that improvements should be considered. Two possible options are:

- (i) a modified repeated ballot system involving more stringent elimination criteria. In cases where no candidate obtained an absolute majority in the first round of voting, only the two leading candidates would proceed to a second round. Thus only two rounds of voting would normally be necessary; or
- (ii) the preferential 'elimination' system described in paragraph 143 above.

### **Other Electoral Arrangements**

**149.** In a separate exercise, the Administration announced in May 1986 that it would review electoral arrangements generally, and invited the public to comment on such arrangements in writing. Fourteen submissions were received on various subjects.

**150.** The review identified a number of possible improvements to existing arrangements: these are dealt with in paragraphs 151–156 below. No significant changes were considered necessary in other aspects such as residential qualifications for candidates and electors for all types of elections, the numbers of nominators required for candidates, polling hours and the form of ballot papers.

### **Measures to discourage frivolous candidates**

**151.** *Election deposit for District Board/municipal council elections:* the present rate of \$1,000 was set in 1955. The review recommended raising it to \$2,000 for District Boards and \$3,000 for municipal council elections. A candidate forfeits his deposit only if he polls less than one-eighth of the valid votes cast.

**152.** *Election deposit for Legislative Council elections:* as a corollary, the deposit for Legislative Council elections could be raised from \$2,000 to \$4,000 to maintain parity.

### **Electoral procedures**

**153.** *Name-dropping:* misrepresentation in the content of some campaign materials used in the last elections attracted general criticism from the public. Although section 16(3) of the Corrupt and Illegal Practices Ordinance (Chapter

288 of the Laws of Hong Kong) provides for interim or perpetual court injunctions to be taken out by the injured party, such action can take time. The review recommended an additional provision in the Ordinance, specifically to cover name-dropping, by requiring candidates to seek and obtain prior written consent before using the name of any other person or organization in their election activities, and by making a breach of this provision an offence.

**154. *Election expenses:*** the present limits on election expenses are \$20,000 for District Boards, \$35,000 for the Municipal Councils and \$10,000 and \$30,000 respectively for electoral college and functional constituency elections to the Legislative Council. Complaints have been made that the limit for the Municipal Councils in particular is inadequate; an analysis of returns on election expenses shows that an *average* of \$28,500 per candidate was spent on election activities at the last municipal council elections. It is difficult to establish a clear relationship between the level of spending and the size of the electorate, given such variable factors as the competitiveness of the elections, the availability of campaign funds and the geographical spread of the electorate. Nevertheless, it is for consideration whether the limit on election expenses for the municipal council elections should be raised.

**155. *Election expenses returns:*** the review recommended that candidates should be required to describe their election expenses more fully in order to facilitate assessment and investigation (if necessary), and that services in kind (e.g. free printing of campaign literature) should be included in the return.

**156. *Copy of the final register for candidates:*** there has been fairly strong objection from the public to the disclosure to candidates of the identity card numbers of electors. Although such information forms part of the final register, it is of no practical use to candidates. It is therefore proposed to omit the identity card numbers of electors from the candidates' copies of the final register and from the address labels produced for mailing purposes.

## CHAPTER VII

### SUMMARY

**157.** The main issues discussed in this Green Paper, on which the views of the public are now sought, are summarized below.

#### **The District Boards and the Municipal Councils (Chapter III)**

**158.** As regards the role of the District Boards, the options discussed in paragraphs 39–41 were:

- (i) to make no change in the present role of the Boards;
- (ii) to empower the Boards to take decisions and to direct the actions of government departments on certain matters of concern specifically to their district;
- (iii) to give to the Boards a role in the management of certain district facilities.

**159.** As regards the composition of the District Boards, the options discussed in paragraphs 44–46 and 62–65 were:

- (i) to make no change to the present proportions of appointed and elected members;
- (ii) to reduce the proportion of appointed members;
- (iii) to withdraw Urban Councillors from ex-officio membership of urban District Boards.

**160.** As regards the relationship of the Urban Council with the urban District Boards, the options discussed in paragraphs 62–65 were:

- (i) to replace the present system of direct elections to the Council by a system of indirect election of Urban Councillors from among District Board members;
- (ii) to provide more opportunities for District Board members to participate directly in the work of the Urban Council and its Select Committees;
- (iii) to expand the membership of the Urban Council to include either:
  - (a) a representative of each urban District Board, elected to the Council from among the Board members; or
  - (b) the Chairman of each urban District Board as an ex-officio member.

**161.** As regards the size of the Urban Council, the options discussed in paragraph 67 were:

- (i) to bring District Board representatives onto the Council;
- (ii) to increase equally the number of appointed and directly elected members;
- (iii) to increase the number of directly elected members only.

**162.** As regards the committee structure of the Urban Council, the options discussed in paragraphs 71–73 were:

- (i) to make no change to the committee structure of the Urban Council;
- (ii) to establish sub-regional committees with responsibilities covering more than one district, either:
  - (a) in addition to the existing Select Committees of the Council; or
  - (b) to replace the functions of some existing Select Committees.

### **The Legislative Council (Chapter IV)**

**163.** As regards the composition of the Legislative Council, the options discussed in Chapter IV were:

- (i) to make no change in the numbers and relative proportions of Official, Appointed and Elected Members;
- (ii) to conclude that direct elections to the Legislative Council are not desirable;
- (iii) to conclude that, in principle, some element of direct elections is desirable, but that it should not be introduced in 1988;
- (iv) if changes are desired in 1988, to choose one or more of the following options:
  - (a) to increase slightly the number of Official Members;
  - (b) to reduce the number of Appointed Members;
  - (c) to increase the number of Members elected by the functional constituencies;
  - (d) to increase the number of Members elected by the electoral college;
  - (e) to introduce a directly elected element in addition to the existing systems of election, by means of either territory-wide or constituency-based elections;
  - (f) to replace the system of indirect elections from the electoral college geographical constituencies by a system of direct elections.

**164.** The concept of a new, broadly-based electoral college, as a possible method of electing a proportion of the members of the legislature, was put forward in paragraphs 108–110 as a matter for discussion for the longer term.

### **The Presidency of the Legislative Council (Chapter V)**

**165.** As regards the position of the Governor as President of the Legislative Council, the options discussed in paragraphs 119–125 were:

- (i) no change;
- (ii) that the Governor might appoint some other person (either the Chief Secretary, another Member of the Council or a person from outside the Council) to preside in his absence for specific sittings or parts of sittings;
- (iii) that the Governor should withdraw from the presidency at some stage and be replaced by a Member of the Council or other person.

## **Practical Aspects of Elections (Chapter VI)**

**166.** As regards the sequence and timing of elections, the options discussed in paragraphs 127–131 were:

- (i) no change;
- (ii) to alter the basic sequence of elections to one in which the Legislative Council elections follow the District Board and municipal council elections, and either:
  - (a) make no other change; or
  - (b) introduce an element of 'staggering' by holding the functional constituency and electoral college elections to the Legislative Council in different years.

**167.** As regards the terms of office of the District Boards, Municipal Councils and the Legislative Council, it is for consideration whether the present term of three years should be changed. The question was discussed in paragraphs 132 and 133.

**168.** As regards the age of entitlement to vote, it is for consideration whether this should be lowered from 21 years to 18 years. The question was discussed in paragraphs 134–137.

**169.** As regards the present voting systems for the Legislative Council functional constituencies and electoral college, the options discussed in paragraphs 141–148 were:

- (i) in the case of the functional constituencies, to replace the present preferential 'addition' system of voting by the preferential 'elimination' system or some other system;
- (ii) in the case of the electoral college, to replace the present repeated ballot system by either:
  - (a) a modified repeated ballot system involving more stringent elimination criteria; or
  - (b) by the preferential 'elimination' system described in paragraph 143.

**170.** It is for consideration whether the present limit of \$35,000 on election expenses for the municipal council elections should be raised. The question was discussed in paragraph 154.

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The public are invited to send their views on this Green Paper in writing to the Survey Office at Block 'O', Victoria Barracks, Hong Kong, or GPO Box 8800, Hong Kong, not later than 30 September 1987.

## APPENDIX A

### The Survey Office

An independent Survey Office has been set up to collect, collate and report on public response to the Green Paper 'The 1987 Review of Developments in Representative Government'.

#### 2. The terms of reference of the Survey Office are as follows:

- (a) to invite as wide a public response as possible to the issues discussed in the Green Paper 'The 1987 Review of Developments in Representative Government', and to receive and record all views expressed in writing by 30 September 1987, including those submitted directly to it or indirectly through established consultative channels; and
- (b) to submit to the Governor in Council, not later than 31 October 1987, an impartial and accurate report collating and presenting all such views in accordance with the following directions:
  - (1) *Elicitation of public response*: the Survey Office shall invite groups, associations, statutory and non-statutory bodies and individuals to consider the issues discussed in the Green Paper and to forward their views in writing to the Survey Office; and take appropriate steps to encourage as wide a response as possible.
  - (2) *Public opinion surveys*: the Survey Office may commission public opinion surveys; it shall take note of other surveys and comment on them.
  - (3) *Confidentiality*: documents in respect of which confidentiality has been requested by the contributor shall be treated accordingly and shall be destroyed as soon as practicable after the publication of the White Paper.
  - (4) *Media reports*: the Survey Office shall monitor views as reported in the media, to the extent that these complement, and do not repeat, submissions already received by the Office.
  - (5) *Signature campaigns and similar documents*: the Survey Office shall comment upon the source and method of compilation of such documents, drawing attention to any duplication or repetition.
  - (6) *The Report* shall, inter alia, include factual summaries of opinion expressed in the following categories:
    - (i) debates, minutes and submissions in the District Boards, the Urban Council, the Regional Council and the Legislative Council;
    - (ii) the written submissions of other statutory and non-statutory bodies, with their membership, functions and objectives and the procedures followed in formulating their submissions noted;
    - (iii) the written submissions of groups and associations, with their membership, functions and objectives and the procedures followed in formulating their submissions noted;
    - (iv) the written submissions of individuals who do not request confidentiality; and
    - (v) the written submissions of individuals who do request confidentiality.

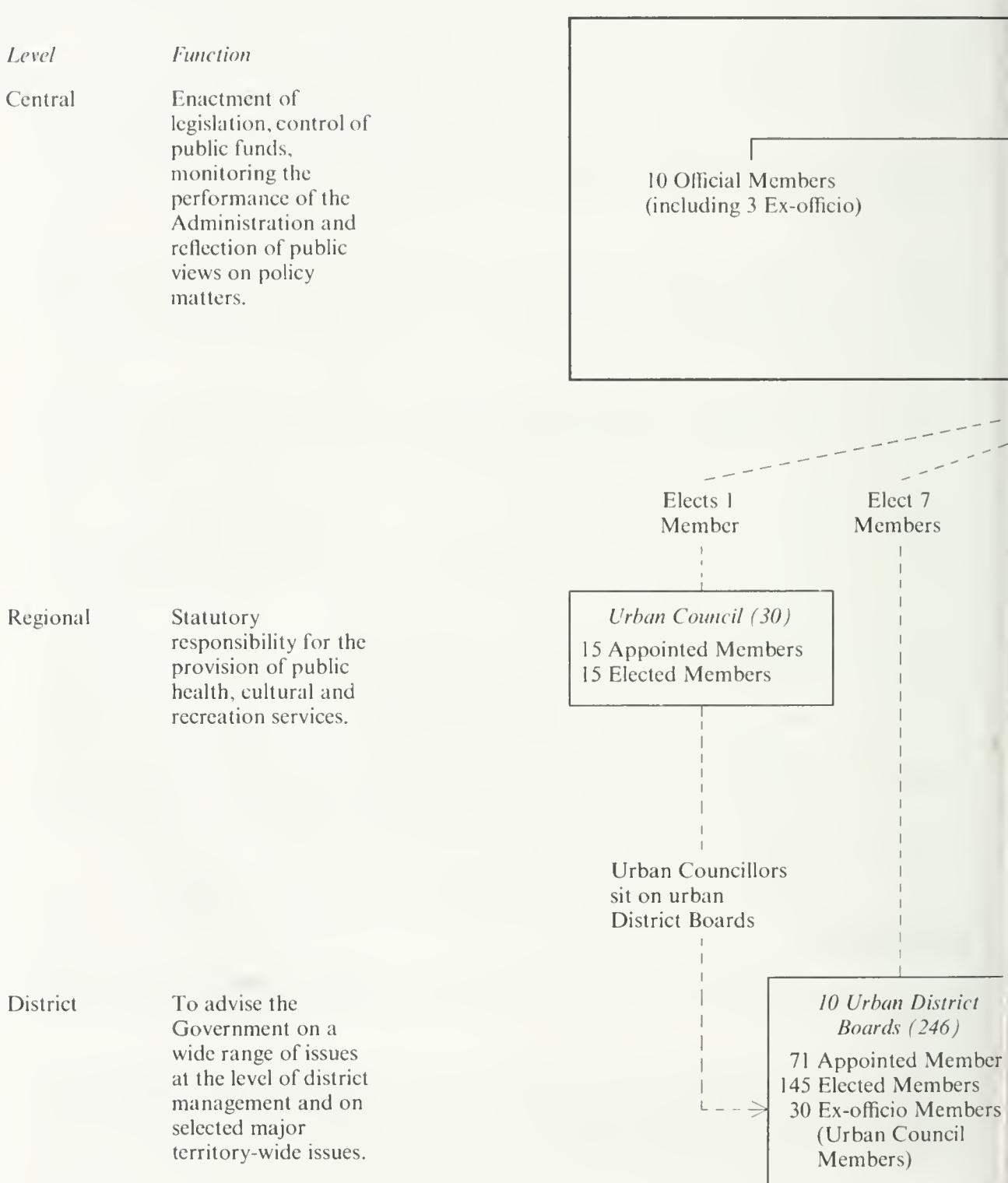
### The Monitors

#### 3. Two independent Monitors, Mr. LI Fook-kow, CMG, JP and Mr. Andrew SO Kwok-wing, OBE, JP have been appointed to oversee the work of the Survey Office. Their terms of reference are as follows:

'The Monitors are required to observe all aspects of the work of the Survey Office and to submit their independent report to the Governor as to whether they are satisfied that the Survey Office has properly, accurately and impartially carried out its duties and followed the procedures prescribed in its terms of reference.'

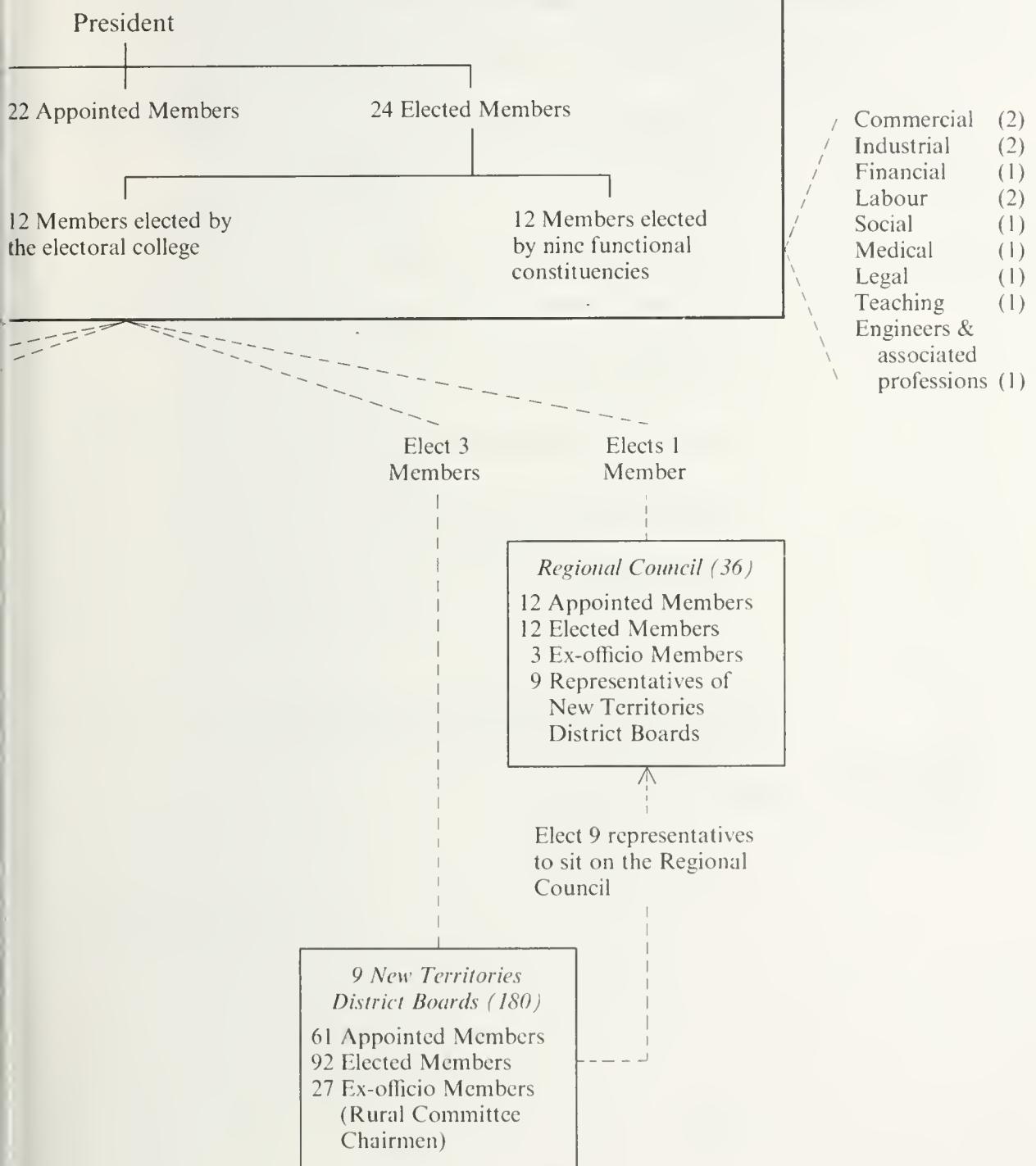
## APPENDIX B

### Structure of Representative Government as at May 1987



\* Urban Councillors are eligible to vote in the Urban Council constituency of the electoral college but not in geographical constituencies.

*Legislative Council (57)*



## APPENDIX C

### The Functional Constituencies

Nine functional constituencies elected an overall total of 12 Members to the Legislative Council in the elections held in September 1985.

2. The commercial, industrial, and labour constituencies each returned two Members to the Legislative Council. The remaining six constituencies each returned one Member.

3. Details of the nine functional constituencies are in the table below.

<i>Constituency</i>	<i>Representative Organizations</i>	<i>No. of Seats</i>	<i>Total Seats</i>
1. Commercial	Hong Kong General Chamber of Commerce	1	
	Chinese General Chamber of Commerce	1	
			2
2. Industrial	Federation of Hong Kong Industries	1	
	Chinese Manufacturers Association	1	
			2
3. Financial	Hong Kong Association of Banks	1	
			2
4. Labour	All Registered Employee Trade Unions	2	
			1
5. Social Services	Hong Kong Council of Social Services	1	
			2
6. Medical	Hong Kong Medical Association	1	
			1
7. Education		1	
8. Legal		1	
9. Engineers and associated professions)	Electoral rolls compiled from: statutory lists, as well as membership/staff lists of institutions and relevant professional bodies	1	
		1	
		1	
	Total	12	

## APPENDIX D

### The Electoral College

The electoral college comprised all members of the District Boards, the Urban Council and the Regional Council. The college elected 12 Members to the Legislative Council in September 1985.

2. In order to achieve a more balanced and adequate representation the District Boards were grouped into ten geographical constituencies each representing approximately 500,000 people.
3. The remaining two seats were provided by the two special constituencies formed respectively by members of the Urban Council and the Regional Council. The interests of the Heung Yee Kuk were represented through the Regional Council.
4. Details of the 12 constituencies formed from the electoral college are in the table below.

<i>Constituency</i>	<i>Population in 1984 (000)</i>	<i>Grouping</i>	<i>Population in 1984 (000)</i>
1. East Island	696	Eastern District	481
		Wan Chai District	215
2. West Island	507	Central & Western District	272
		Southern District	235
3. Kwun Tong	663	Kwun Tong District	663
4. Wong Tai Sin	452	Wong Tai Sin District	452
5. Kowloon City	441	Kowloon City District	441
6. Sham Shui Po	435	Sham Shui Po District	435
7. South Kowloon	389	Mong Kok District	215
		Yau Ma Tei District	174
8. East New Territories	524	North District	134
		Tai Po District	109
		Sha Tin District	281
9. West New Territories	459	Yuen Long District	238
		Tuen Mun District	221
10. South New Territories	726	Tsuen Wan District (including Tsing Yi)	654
		Islands District	37
		Sai Kung District	35
11. Urban Council			
12. Regional Council			

## APPENDIX E

### Professional Bodies and Organizations which have requested formal recognition as functional constituencies since the 1984 White Paper

- (1) Hong Kong Electrical and Mechanical Contractors Association
- (2) Hong Kong Society of Accountants
- (3) Hong Kong Joint Branch of the Royal Institution of Naval Architects and the Institute of Marine Engineers
- (4) Heung Yee Kuk
- (5) Hong Kong Institute of Architects (wish for better representation in the Engineers and associated professions constituency)
- (6) Indian Chamber of Commerce
- (7) Hong Kong Dental Association (wish to be included in the Medical constituency)
- (8) Insurance Council of Hong Kong (wish to be included in the Financial constituency)
- (9) Hong Kong Teachers Association (seek additional seat(s) for the Education constituency)
- (10) Chartered Institution of Building Services Engineers (wish for recognition within the Engineers and associated professions constituency)
- (11) Hong Kong Tourist Association
- (12) Society of Builders, Hong Kong (wish for inclusion in a functional constituency electorate)
- (13) Hong Kong Institute of Land Surveyors (wish to be included in the Engineers and associated professions constituency)
- (14) The Institute of Housing (Hong Kong Branch)
- (15) Society of Education Hong Kong Ltd. (request additional seat for the Education constituency)
- (16) Society of Dyers and Colourists (wish for a voice on the Legislative Council)
- (17) Hong Kong Institute of Surveyors (wish for a separate constituency for land economists)
- (18) Hong Kong Deposit-Taking Companies Association (wish to be included in the Financial constituency)
- (19) Hong Kong Institute of Engineers (request additional seat for the Engineers and associated professions constituency)
- (20) Joint Council of Engineering, Building & Land Development (request additional seat for the Engineers and associated professions constituency)
- (21) Council of Hong Kong & Kowloon Kaifong Associations Ltd.
- (22) Association of the Institute of Chartered Secretaries & Administrators in Hong Kong
- (23) Joint Conference of the Hong Kong, Kowloon and New Territories Agricultural Organizations.

### **IMPORTANT NOTE**

The public are invited to send their views on this Green Paper in writing to the Survey Office at Block 'O', Victoria Barracks, Hong Kong, or GPO Box 8800, Hong Kong, not later than 30 September 1987.





